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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,624	06/20/2003	Gabriel Bernaz	2-0153-017	7196

803 7590 07/18/2006

STURM & FIX LLP  
206 SIXTH AVENUE  
SUITE 1213  
DES MOINES, IA 50309-4076

EXAMINER
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BUI, VY Q

ART UNIT	PAPER NUMBER
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3734

DATE MAILED: 07/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/600,624

Applicant(s)

BERNAZ, GABRIEL

Examiner

Vy Q. Bui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 March 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-20 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/20/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

Claim 14 is rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a disclosure in the specification to asserted utility or a well established utility.

Claim 14 is also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either a mechanism to support the asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to make the claimed invention.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 8-9, 16, and 19-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Ignon-6,629,983.

As to claims 1-3, 8-9, 16, and 19-20, Ignon-'983 (Figs. 1-3, 7-9; col. 4, lines 46-64, for example) discloses a device for dermabrasion comprising handle/housing 34, support surface

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36c (Fig. 7), substantial curved abrasive surface 94 oscillating within support surface 36c and inherently a method of dermabrasion as recited in the claims.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-7, 10-11, 13-15, 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ignon-6,629,983.

As to claims 4-6, Ignon-'983 substantially discloses the claimed invention, except for the interchangeable abrasive pieces or a double face abrasive piece or a massage surface.

However, these configurations are well known in the art. For example, Ignon-'983 (Fig. 2; col. 3, lines 6-12 and Fig. 3, col. 3, line 45-52) discloses removable interchangeable abrasive pieces 54 or 58 or 61, and removable double face abrasive piece with abrasive surfaces 54 and 67 (Fig. 3). It would be obvious to one of ordinary skill in the art to provide any embodiment of Ignon-'983 the features as recited in the claims as these features are well known.

As to claims 7, 13 and 15, Ignon-'983 substantially discloses the claimed invention, except for the U-shaped element of support surface. However, changing shape of an element and orientation of an element of a device are within level of one of ordinary skill in the art. It would be obvious to one of ordinary skill in the art to provide Ignon-'983 device with a U-shaped support element as this would merely involve a change in shape of the support element and an

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inclined axis of oscillation relative to the axis of housing as this would merely involve a change in orientation of an element of Ignon-'983 device.

As to claims 10-11, Ignon-'983 substantially discloses the claimed invention, except for the speed variation of oscillation between 0.5 to 200 oscillations per minute. However, vary an oscillation speed in an oscillation range for more choices of dermabrasion is well known in the art. It would be obvious to one of ordinary skill in the art to provide Ignon-'983 device with variation of oscillation speed as recited in the claims to provide more choices for dermabrasion.

As to claim 14, Ignon-'983 substantially discloses the claimed invention, except for a to-and-fro motion as recited in the claim. However, providing a to-and-fro motion to have a vibration effect in a device is well known. It would be obvious to one of ordinary skill in the art to provide Ignon-'983 device with a to-and-fro motion to have a vibration effect in the device as this motion is well known in the art.

As to claim 18, it is well known to have a process as recited in the claim with many well known electromagnetic and laser device available in the art.

### ***Allowable Subject Matter***

Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vy Q. Bui whose telephone number is 571-272-4692. The examiner can normally be reached on Monday-Tuesday and Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on 571-272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
02/10/2006

Vy Q. Bui  
Primary Examiner  
Art Unit 3734